

**REMARKS**

Claims 1 and 5-13 are pending. Applicants thank the Examiner for considering the Affidavit under 37 CFR § 1.132, and, accordingly, withdrawing the previous Office Action.

Initially, as the Office Action indicated that claim 7 is objected to as being dependent upon a rejected base claim, claim 7 has been rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

Claims 1, 5, 6, 8, and 9-13 stand rejected under 35 USC § 103(a) as allegedly being unpatentable over Schmidt et al. (U.S. Publication No. 2002/0026935) in view of Armer et al. (U.S. Patent No. 6,095,141), in further view of Berg et al. (U.S. Patent No. 6,435,176). The Office Action asserts that Schmidt et al. teaches each feature of the rejected claims, except for a chamber that is made from polyamide that comprises two frustoconical members assembled together at coaxially divergent ends, the inlet and outlet being respectively at opposed ends, for which purpose Berg et al. and Armer et al. are cited. Reconsideration is respectfully requested.

The Office Action maintains that Berg et al. discloses a chamber having two frustoconical members. However, the members forming the chamber of Berg et al. are not two frustoconically shaped members. Specifically, Applicants direct the Examiner's attention to the specification of Berg et al., beginning at column 2, line 40, where first part 2 of the spacer 1 is described as being "slightly conically tapering," while second part 5 is "substantially hemispherical." As neither of the remaining references teaches or suggests such a structure, Applicants respectfully present that the present claims are allowable over this combination of references.

Moreover, the structure of the device of Schmidt et al. is a very specific design to accomplish a specific goal, wherein the chamber housing portion 24 is of a precise shape, as described in the specification beginning at paragraph [0080]. This shape is designed to include a valve assembly in receiving area 28 at the input end. Because such a specific design is described, modification to eliminate or modify any of the included elements, for example, the valve assembly, would be contrary to the specific teachings of Schmidt et al., where the chamber housing 24 is formed from a single member of a specific, and very different, design.

Similarly, the design of Armer et al. is also very specialized, having an air-tube outlet which opposes that nozzle discharge orifice from which the active formulation is discharged, the purpose being for a flow of air to oppose and slow down the aerosol plume. Again, it would be contrary to the teachings of this reference to modify or eliminate any of the specifically included features as described therein, as the specific purpose would likely be obiated. The conduit portion of Armer et al. is also tubular, rather than frustoconical, as recited by the rejected claims.

Finally, Applicants note that although Armer et al. lists polyamide as one possible material from which the housing 12 may be formed (column 9, lines 20-25), there is no specific teaching to select polyamide. As the present invention is a selection invention, wherein the specific material, i.e., polyamide, has been found to provide unexpected advantages not provided by other plastic materials, Applicants respectfully present that the selection of polyamide from among the list of possible materials would not have been obvious. The unexpected superior properties exhibited when polyamide is selected as the material for the spacer are demonstrated in the Affidavit under 37 CFR § 1.132, submitted Aug. 6, 2003.

Reconsideration of the rejections is respectfully requested.

In view of the above, it is respectfully submitted that all objections and rejections are overcome. Thus, a Notice of Allowance is respectfully requested. If any additional fee is necessary, it may be charged to the undersigned's deposit account number 19-4375.

Respectfully submitted,



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